



PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
 (Chapter II of the Patent Cooperation Treaty)
 (PCT Article 36 and Rule 70)

Applicant's or agent's file reference F18726 AS/vd	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/B2005/000125	International filing date (day/month/year) 19.01.2005	Priority date (day/month/year) 30.01.2004	
International Patent Classification (IPC) or national classification and IPC INV. C04B28D4			
Applicant WHEATFIELD INVESTMENTS NO. 191 (PROPRIETARY) ...			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 4 sheets, as follows:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. II Priority</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. VI Certain documents cited</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p style="margin-left: 20px;"><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 26.08.2005		Date of completion of this report 04.05.2006	
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Gattinger, I Telephone No. +49 89 2399-6097 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2005/000125

Box No. I Basis of the report

1. With regard to the **language**, this report is based on

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements*** of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

Description, Pages

2-6, 8-12

as originally filed

1, 7

received on 29.08.2005 with letter of 26.08.2005

Claims, Numbers

6-12

as originally filed

1-5, 13-15

received on 29.08.2005 with letter of 26.08.2005

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (specify):
- ☐ any table(s) related to sequence listing (specify):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (specify):
- ☐ any table(s) related to sequence listing (specify):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2005/000125

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,6,13
	No: Claims	1,2,4,5,7-12,14,15
Inventive step (IS)	Yes: Claims	
	No: Claims	3,6,13
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2005/000125

Re Item I

Basis of the report

The amendments submitted by the applicant with letter from 26.08.2005 fulfil the requirements of Article 34(2)(b) PCT.

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: US-A-6 046 269 (NASS ET AL) 4 April 2000
D2: US-A-5 846 315 (JOHANSEN, JR. ET AL) 8 December 1998
D3: US-B1-6 547 873 (RAMIREZ DE ARELLANO EDUARDO) 15 April 2003
D4: PATENT ABSTRACTS OF JAPAN vol. 018, no. 198 (C-1187), 7 April 1994 &
JP 06 001647 A (SHIMIZU CORP), 11 January 1994
D5: WO 98/02486 A (RHONE-POULENC CHIMIE) 22 January 1998

2. After careful consideration of the argumentation of the applicant with letter from 26.08.2005, the present application still does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 2, 4, 5, 7 to 12, 14 and 15 is not novel in the sense of Article 33(2) PCT.

- 2.1. The document D1 discloses (the references in parentheses applying to this document):

A coloured finishing composition comprising an aqueous pre-mix of an acrylic polymer latex, 5 to 15 % thickening agent and fillers, which are to be mixed into a cementitious dry mix (column 2; lines 23 to 40), whereby the final compositions comprises 28 to 50 % cement (column 6; lines 16 to 18). The thickening agent is disclosed to be a hydroxy ethyl cellulose (column 5; lines 33 to 36), which falls into

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2005/000125

the definition of a colloidal polymeric material.

With his letter from 26.08.2005 the applicant pointed out, that with a "proper reading of claim 1", the subject-matter of claim 1 could not be considered to be anticipated by D1. However, in the strict context of novelty, claim 1 defines a product which comprises at least the three components being water, cement and a colloiddally-sized polymeric material, the product being suitable for application as a paint (see therefore also PCT-Guidelines 5.21). Claim 1 does not contain features (for example: presence, absence and/or amounts of specified components, amount of water, consistency in terms of viscosity) which enable a clear differentiation of the subject-matter of claim 1 in view of the disclosure of D1. The same argumentation applies mutatis mutandis for the disclosure of D2 and D3 (see point 2.2 below).

Thus, independent claim 1 can not be considered to be novel in light of D1. The sequence of mixing falls furthermore also into the scope of independent method claim 14, which is therefore also not novel.

The composition, which may also comprise colorants and biocides (column 6, lines 4 to 12) falls furthermore also into the scope of dependent claims 2, 4, 8 to 12 and 15, which can not be considered to be novel as well.

- 2.2. Documents D2 and D3 both disclose cementitious coating compositions comprising a organic binder component as well as cellulose ether in amounts falling into the scope of independent claim 1, which is therefore also not novel in view of D2 or D3.

D2 and D3 both disclose the addition of white Portland cement. Dependent claim 5 is therefore also not novel. D2 explicitly disclose sodium carboxymethyl cellulose as a suitable thickening component (column 3; lines 53 to 63). Thus, claim 7 is not novel as well.

3. Dependent claims 3, 6 and 13 do not contain any features which, in combination with the features of any claim to which they refers, meet the requirements of the PCT in respect of inventive step, the reasons being as follows:

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2005/000125

- It is known to the person skilled in the art that the feature use of fibrous colloid polymeric material for adjustment of viscosity (see D4 or D5) is equivalent to the use of cellulose ether of document D1 and can be interchanged with that feature where circumstances make it desirable. Dependent claim 6 can therefore not be considered to be inventive.
- The features of dependent claims 3 and 13 appear to be merely straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed.

CEMENT PAINT

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THIS INVENTION relates, broadly, to a cement paint. More particularly, it relates to a water-based cement paint; and it relates to a process for formulating the water-based cement paint.

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According to the invention there is provided a water-based cement paint, the paint being a paint which includes, as constituents thereof, cement particles and water, the cement particles being uncured cement particles, the paint also including, as a constituent, colloiddally-sized particles of polymeric material capable of forming a stable colloid in water, the paint being in the form of a homogeneous blend of said constituents, the cement particles forming 5 - 40% by mass of the paint and the colloiddally-sized particles forming 0.25 - 10% by mass of the paint.

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It is a feature of the paint of the present invention that the paint can be formulated as a stable blend of its constituents, in that the blend has an extended shelf-life in the absence of air. By stable is meant not only that the blend has said extended shelf-life in the absence of air, but also that it has little or no tendency, when sealed in a paint can, to separate quickly into its constituent parts, and after mixing by stirring in a paint can prior to use, will not require further mixing for at least 60 minutes. By an extended shelf-life is meant that the paint, in the absence of air (for example when contained in a sealed paint can), will be usable for several months

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AMENDED SHEET

defoamer used is admixed with the water or colloidal suspension prior to the cement, and any pigment, thickener and/or dispersant used is admixed with the other constituents, after addition of the elastomer to the colloidal suspension. In particular, 5 the pigment, thickener and/or dispersant may be dispersed (dissolved and/or suspended) in water before addition thereof to the blend of the other constituents.

The invention accordingly extends to a process for formulating a water-based cement paint as defined above, the process including the steps of:

10 suspending the colloiddally-sized polymer particles in water to form a colloidal suspension; and

admixing the cement particles with the colloidal suspension to form a paint which is a blend of the water, cement and colloiddally-sized polymer particles.

15 The process may include the step of admixing the elastomer particles with the water to form the colloidal suspension, before the admixing of the cement particles with the suspension.

20 The various other said optional constituents may be admixed with the water, polymer particles, cement particles and elastomer particles in any desired or convenient sequence.

The invention will now be described, by way of non-limiting illustrative example, with reference to the following worked Examples:

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AMENDED SHEET

CLAIMS:

1. A water-based cement paint which includes, as constituents thereof, cement particles and water, the paint being
5 characterized in that
It is a paint in which the cement particles are uncured cement particles, the paint also including, as a constituent, colloiddally-sized particles of polymeric material capable of forming a stable colloid in water, the paint being in the form of a homogeneous blend of said constituents, the cement particles forming 5 - 40% by mass of the paint and
10 the colloiddally-sized particles forming 0.25 - 10% by mass of the paint.
2. A paint as claimed in Claim 1, characterized in that the cement particles are run-of-the-mill portland cement particles, the cement particles forming 10 - 30% by mass of the paint and the colloiddally-sized particles forming 1 - 6% by mass of the
15 paint.
3. A paint as claimed in Claim 2, characterized in that the cement particles form 12 - 18% by mass of the paint, the colloiddally-sized particles forming 1.5 - 3% by mass of the paint.
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4. A paint as claimed in any one of Claims 1 - 3 inclusive, characterized in that the cement particles are grey portland cement particles.
5. A paint as claimed in any one of Claims 1 - 3 inclusive, characterized in that
25 the cement particles are white portland cement particles.

AMENDED SHEET

13. A paint as claimed in Claim 12, characterized in that the pigment is a particulate inorganic pigment, the pigment forming 2 – 10% by mass of the paint and having an average particle size in the range 0.05 - 100µm.

5 14. A process for formulating a water-based cement paint as claimed. In any one of the preceding claims, the process being characterized in that it includes the steps of:

suspending the colloiddally-sized polymer particles in water to form a colloidal
10 suspension; and

admixing the cement particles with the colloidal suspension to form a paint which is a blend of the water, cement and colloiddally-sized polymer particles.

15 15. A process as claimed in Claim 14, characterized in that it includes the step of admixing the elastomer particles with the water to form the colloidal suspension, before the admixing of the cement particles with the suspension.